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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,043	10/24/2003	H. Charles Li	14698.005US	1547
22870	7590	10/06/2004	EXAMINER	
TECHNOPROP COLTON, L.L.C.			PRUNNER, KATHLEEN J	
P O BOX 567685			ART UNIT	
ATLANTA, GA 311567685			PAPER NUMBER	

3751

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/693,043	LI ET AL.	
	Examiner	Art Unit	
	Kathleen J. Prunner	3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-30 is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-15 and 17 is/are rejected.
- 7) ☒ Claim(s) 8, 16 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>072904</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The following informalities in the claims are noted: (A) in claim 1, on line 4, "connection" should be changed to read --connecting--; and (B) in claim 18, on line 1, "77" should be changed to --17-- since it appears to be a typing error. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7, 9-15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Lesikar. Lesikar discloses a device having all the claimed features including an elongated member (constituted by unit 16, note Fig. 3) comprising a first interior chamber (constituted by the manifold portion 21), a second interior chamber (constituted by the area on the opposite side of baffle 26), a feed water inlet 24 into the first interior chamber 21, a distribution slot (constituted by the area between the top of baffle 26 and the top 17) fluidly connecting the first interior chamber 21 to the second interior chamber (note Fig. 2), and a waterfall slot (constituted by throat 40), and a first end piece (constituted by side 30) fluidly connected to a water source (via water inlet 24) and fluidly connected to the elongated member 16 for allowing feed water to flow from the water source through the feed water inlet 24 into the elongated member 16 wherein the first end piece 30 and a second end piece (constituted by side 31) anchor the elongated member 16 to a supporting structure (constituted by depression 38) (note lines 54-58 in col. 2). With respect to claims 2 and 9, Lesikar also discloses that the first chamber 21 and the

Art Unit: 3751

second chamber are separated from each other by a divider (constituted by baffle 26) and wherein the distribution slot delineates a passageway through the divider allowing fluid communication between the first chamber 21 and the second chamber (note Fig. 3). With respect to claim 3, Lesikar further discloses that a waterfall is produced from water flowing from the waterfall slot 40 (note Figs. 1 and 2, and lines 23-30 in col. 2). With regard to claims 4 and 12, Lesikar additionally discloses that the first chamber 21 transiently collects the feed water and transfers the water through the distributing slot to the second chamber and the second chamber channels the water to and through the waterfall slot 40 (note Fig. 2). With regard to claims 7 and 17, Lesikar further discloses that the first end piece 30 comprises a channel therethrough for fluidly connecting the water source to the first chamber 21 through the feed water inlet 24 (note Fig. 3). With regard to claims 5, 6, 14 and 15, Lesikar also discloses that the supporting structure is an artificial body of water of a pool or spa (note lines 6-12 in col. 1). With respect to claim 9, Lesikar additionally discloses that the first end piece 30 and the second end piece 31 are attached to opposite ends of the elongated member 16 (note Fig. 3), that the waterfall is generated from the water flowing to the water structure (note Fig. 6), and that the passage of the water from the first chamber 21 to the second chamber through the divider 26 more evenly distributes the water within the elongated member so as to create a more uniform waterfall (note from line 67 in col. 2 to line 2 in col. 3). With respect to claim 10, Lesikar also discloses that the elongated member 16, the first end piece 30, and the second end piece 31 form a continuous structure (note Fig. 3). With respect to claim 11, Lesikar further discloses that the water entering the elongated member 16 exits exclusively out of the waterfall slot 40 (note Fig. 2). With regard to claim 13, Lesikar additionally discloses that the waterfall has a sheet-like shape (note Fig. 1, and lines 28-30 in col. 1).

Allowable Subject Matter

4. Claims 8, 16 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
5. Claims 19-30 are allowed.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Striegel et al. is cited to show a handle or railing for a spa that functions also as part of a circulation system. Chartier is cited to show a device for creating a waterfall in which the elongated member is connected to end pieces or fittings. Webb is cited to show a fluid curtain device having a rotating inner chamber.
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Kathleen J. Prunner whose telephone number is 703-306-9044. In mid to late November, 2004, the examiner's office will move to the new complex in Alexandria, Virginia. Upon moving to the new complex, the examiner's new telephone number will be 571-272-4894.
8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory L. Huson can be reached on 703-308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

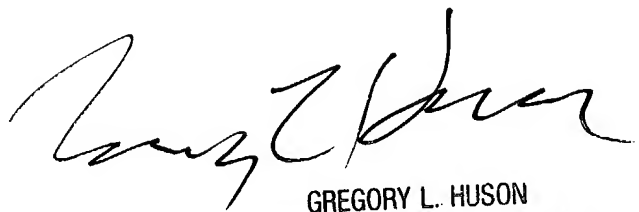
Art Unit: 3751

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kathleen J. Prunner

October 1, 2004



GREGORY L. HUSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700